

REMARKS

Reconsideration and allowance in view of the foregoing amendments and the following remarks are respectfully requested.

Upon entry of the amendments contained herein, claims 1-2, 4-9, 11-15, 24, 31 and 33 will remain pending in the present application. Independent claim 1 has been amended to include the limitations of dependent claim 3, independent claim 8 has been amended to include the limitations of dependent claim 10, and independent claim 24 has been amended to include limitations similar to those included in claims 1 and 8. Independent claim 31 has been amended to include the limitation of dependent claim 32.

Claims 1-4, 7-11, 13-15 and 24 stand rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 5,741,123 to Pauley (“the ‘123 patent”) in view of U.S. Patent No. 4,653,976 to Blair (“the ‘976 patent”). Applicant respectfully traverses these rejections for the reasons presented below.

Independent claim 1 recites a radial impeller that includes “a plurality of impeller blades disposed on one face of the impeller body” and “a skirt extending around the perimeter of the impeller, the skirt extending downwardly from a second face of the impeller body opposite the one face of the impeller body.” As noted paragraph 32 of the present application, “[f]or smooth operation of impeller 20, the impeller must be balanced.... Skirt 60 provides a convenient location for removing selective material for balancing of impeller 20 without the removed material affecting the fluid flow in the impeller.” The cited art does not teach or suggest an impeller having this feature.

The ‘123 patent describes a turbocharger 10 having an impeller 30 that is shown in FIGS. 2 and 3 of the ‘123 patent. The impeller 30 includes an elevated fan 36 having fan blades 44 centered about opening 40. The impeller 30 also includes curved, downward sloping impeller blades 48, each one secured to a fan blade 44 and provided on a base disc 42. The impeller 30 does not include a skirt extending around the perimeter of the impeller that extends

downwardly from a face of the impeller 30 (a face of the disc 42) that is opposite the face on which the blades 48 are provided.

The '976 patent describes a centrifugal impeller 26 that includes integral blades 38 and splitter blades 40 which are provided on a first face of the impeller body. The opposite face of the impeller body is flat and does not include a skirt of any kind.

It is therefore clear from the above that the '123 patent and the '976 patent, either alone or in combination, do not teach or suggest all of the limitations of amended claim 1. More specifically, those references do not teach or suggest a radial impeller that includes "a plurality of impeller blades disposed on one face of the impeller body" and "a skirt extending around the perimeter of the impeller, the skirt extending downwardly from a second face of the impeller body opposite the one face of the impeller body." Applicant thus respectfully submits that independent claim 1 is not rendered obvious by the cited references. See M.P.E.P. § 2142 ("To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) must teach or suggest all the claim limitations.").

Independent claims 8 and 24 include limitations similar to those of independent claim 1 discussed above. Thus, the comments given above with respect to claim 1 are equally applicable to independent claims 8 and 24.

For the reasons presented above, Applicant respectfully submits that independent claims 1, 8 and 24 are not anticipated or rendered obvious by the cited references. In addition, claims 2, 4-7, 9, and 11-15 are also not anticipated or rendered obvious due to their dependency from independent claims 1 or 8. Accordingly, applicant respectfully requests that the above rejections of claims 1-4, 7-11, 13-15 and 24 be withdrawn.

The Examiner rejected claims 31-33 under 35 U.S.C. § 102 as being anticipated by WO 99/13932 ("the '932 application") and by U.S. Patent No. 5,868,133 to DeVries et al ("the '133 patent")

Independent claim 31 recites a method of supplying gas that includes "pressurizing gas from the source of breathing gas via the pressure generator such that the pressure generator will, based on a preselected pressure of between 10-65 cmH₂O and

responsive to a range of flow rates from 10-150 l/min, output a flow of breathing gas having a pressure within a standard deviation of no more than 1.5 cmH₂O of the preselected pressure.” In other words, the flow rate of the gas may be varied over a range of as much as 10 to 150 l/min, and the pressure generator will still be able to deliver gas at a pressure level that is within a standard deviation of no more than 1.5 cmH₂O of a certain pressure that has been preselected by a user. See paragraph 39 of the present application and FIGS. 9 and 10. Applicant respectfully submits that the cited references do not teach or suggest a method of supplying gas having these features.

The ‘932 application merely describes a medical ventilator that can be set to provide at any one time from three to one hundred and forty liters per minute and to provide at any one time between zero and thirty five cm H₂O. Similarly, the ‘133 patent merely describes a medical ventilator that can be set to provide at any one time from ten to one hundred and forty liters per minute and to provide at any one time between one and sixty cmH₂O. Neither the ‘932 application nor the ‘133 patent teaches or suggests “pressurizing gas from the source of breathing gas via the pressure generator such that the pressure generator will, based on a preselected pressure of between 10-65 cmH₂O and responsive to a range of flow rates from 10-150 l/min, output a flow of breathing gas having a pressure within a standard deviation of no more than 1.5 cmH₂O of the preselected pressure.” In other words, neither the ‘932 application nor the ‘133 patent describes varying the flow rate of the gas over a range of as much as 10 to 150 l/min, and responsive thereto delivering gas at a pressure level that is within a standard deviation of no more than 1.5 cmH₂O of a certain pressure that has been preselected by a user.

Thus, Applicant respectfully submits that claims 31 and 33 are not anticipated nor rendered obvious by the cited references.

It should be noted that the applicant has not addressed each rejection of the dependent claims. Any rejection of a dependent claim not specifically addressed is not to be construed as an admission by the application of the correctness of that rejection. Rather, the applicant believes that the independent claims are patentably distinguishable over the cited references for the reasons noted above, so that the rejection of the dependent claims need not be

addressed at this time. Applicant reserves the right to address the rejection of any dependent claim at a later time should that become warranted.

This response is being filed within the three-month statutory response period which expires on September 22, 2010. In addition, no additional claim fees are believed to be required as a result of the above amendments to the claims. Nevertheless, the Commissioner is authorized to charge any fee required under 37 C.F.R. §§ 1.16 or 1.17 to deposit account no. 14-1270.

All objections and rejections have been addressed. It is respectfully submitted that the present application is in condition for allowance and a Notice to the effect is earnestly solicited.

Respectfully submitted,

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